



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 6, 1991

Mr. Firmin A. Hickey, Jr.  
Attorney for City of Bellaire  
11511 Katy Freeway, Suite 225  
Houston, Texas 77079

OR91-550

Dear Mr. Hickey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13297.

You have received a request for "a copy of the personnel file or any other file, document or record relating to the application for employment" of a specified applicant for the position of peace officer. You claim that some or all of the information may be excepted from required public disclosure under section 3(a)(2) of the Open Records Act. The requester asserts that certain information contained in the applicant file must be withheld from public disclosure. Accordingly, we will not address the applicability of section 3(a)(2) to those items.

Previous open records decisions issued by this office resolve your request. Section 3(a)(2) applies only to employees, not to applicants for employment. Open Records Decision No. 345 (1982). However, Open Records Decision No. 405 (1983) at 2 held that the test found in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) for section 3(a)(1) privacy is applicable to section 3(a)(2) privacy.

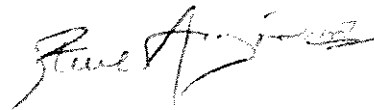
The Office of the Attorney General will raise section 3(a)(1) on behalf of a governmental body in order to prevent the unlawful release of confidential information. See Open Record Decision 455 (1987). *Industrial Foundation* ruled that information may be withheld from required public disclosure only if the

information is highly intimate or embarrassing such that a reasonable person would object to its release *and* the public has no legitimate interest in it. 540 S.W.2d at 685. In Open Records Decision No. 523 (1989), this office held that credit reports, financial statements, and financial information regarding an individual applicant for the veterans' land program are excepted by common-law privacy. The confidentiality of background financial information must be determined on a case-by-case basis. *Id.* at 4. However, such information as an applicant's educational training; names and addresses of former employers; dates of employment; kind of work, salary and reasons for leaving; names, occupations, addresses and phone numbers of character references; birthdates, height, weight, marital status and social security numbers; job performances or abilities; and names of friends and relatives employed by the governmental body is not ordinarily excepted from required public disclosure by common-law privacy interests. Open Records Decision No. 455.

We have examined the documents submitted to us for review and conclude that some of the information contained therein is of an embarrassing and intimate nature. We further conclude that, because the information relates to an applicant for public employment who was not hired, there is no legitimate public interest in release of such information. Accordingly, the credit report, student loan information listed on page two of the personal history statement, and sections II and IV of the personal history statement may be excepted from required public disclosure under section 3(a)(1) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-550.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Steve Aragon", with a stylized flourish at the end.

Steve Aragon  
Assistant Attorney General  
Opinion Committee

SA/GK/lcd

Ref.: ID# 13297

cc: Lorraine Adams and Dan Malone  
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